



Scottish Information
Commissioner
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Decision Notice 184/2025

Whether requests were vexatious

Authority: City of Edinburgh Council
Case Ref: 202500766 and 202500767

Summary

The Applicant made two separate information requests to the Authority for information relating to the number of times the Authority allowed “direct payments to be used towards counselling”. The Authority declined to comply with the requests as it considered them vexatious. The Commissioner investigated and found that the requests were vexatious, and so the Authority was not obliged to comply with them.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 14(1) (Vexatious or repeated requests); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 29 and 30 November 2024, the Applicant made the following two separate requests for information to the Authority. Each request related to how many times the Authority had allowed “direct payments to be used towards counselling” but contained different timeframes. (The full wording of each request can be found at Appendix 1.)
2. The Authority responded separately to each request on 3 January 2025. It stated that it considered each request vexatious and, in line with section 14(1) of FOISA, it was not obliged to comply with them.

3. On 6 January 2025, the Applicant wrote to the Authority requesting separate reviews of its decision for each of her two requests. She stated that she was dissatisfied with the decision because she disagreed that her requests were vexatious.
4. The Applicant did not receive a response to either of her requirements for review.
5. The Applicant wrote to the Commissioner on 7 February 2025, stating that she was dissatisfied with the Authority's failure to respond to each of her requirements for review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner issued [Decision 069/2025](#)¹ and [Decision 070/2025](#)², which found that the Authority failed to respond to the Applicant's requirements for review within the timescale laid down by section 21(1) of FOISA.
7. The Authority notified the Applicant of the outcome of its review for each of her two requests separately, on 11 February 2025, with each outcome fully upholding its original decision.
8. On 21 February 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA for each of her two requests. She stated that she was dissatisfied with the outcome of the Authority's review for each of her two requests because she disagreed that her requests were vexatious.

Investigation

9. The Commissioner determined that each application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
10. On 16 May 2025, the Authority was notified in writing that the Applicant had made two valid applications. The cases were allocated to an investigating officer.
11. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on each application and to answer specific questions relating to why it considered the Applicant's requests were vexatious.
12. The Commissioner's investigation will not consider the Authority's failure to respond to the Applicant's requirements for review within the timescale laid down by section 21(1) of FOISA as these failures have already been addressed in Decision 069/2025 and Decision 070/2025.

Commissioner's analysis and findings

13. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Section 14(1) – Vexatious requests

14. Under section 14(1) of FOISA, a Scottish public authority is not obliged to comply with a request for information if the request is vexatious.

¹ <https://www.foi.scot/decision-0692025>

² <https://www.foi.scot/decision-0702025>

15. The Commissioner has published [guidance](#)³ on the application of section 14(1) of FOISA. This states:

There is no definition of "vexatious" in FOISA. The Scottish Parliament considered that the term "vexatious" was well-established in law and chose to give the Commissioner latitude to interpret the term in that context, so that the interpretation might evolve over time in light of experience and precedent.

16. In the Commissioner's view, there is no single formula or definitive set of criteria that allow a formulaic approach to be taken to determining whether a request is vexatious. Each request must be considered on the merits of the case, supported by evidence, clear evaluation and reasoning. Although this is not an exhaustive list, the following factors will be relevant to a finding that a request (which may be the latest in a series of requests or other related correspondence) is vexatious:
- (i) it would impose a significant burden on the public authority
 - (ii) it does not have a serious purpose or value
 - (iii) it is designed to cause disruption or annoyance to the public authority
 - (iv) it has the effect of harassing the public authority
 - (v) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
17. While the Commissioner's view is that the term "vexatious" must be applied to the request and not the requester, he also acknowledges that the applicant's identity, and the history of their dealings with a public authority, may be relevant in considering whether a request is vexatious.

The Authority's submissions

18. The Authority provided detailed submissions explaining why it considered the Applicant's requests vexatious in terms of section 14(1) of FOISA.
19. The Authority explained that it considered the requests in question met the threshold to be considered vexatious when viewed in the context of protracted engagement with the Applicant on the same subject over a period of ten months.
20. Over this period, the Authority said that the Applicant had submitted eight requests regarding permissions related to the use of direct payments. The Authority provided evidence of these requests and associated correspondence to the Commissioner.
21. The Authority noted that it understood the importance of being "applicant blind". However, it said that through significant engagement with the Applicant over a significant period it had knowledge of the circumstances prompting the submission of her requests. To the best of its understanding, it understood the Applicant was seeking to challenge a decision reached that – in her view – restricted her use of direct payments awarded to her and that she was seeking to obtain information to allow her to challenge this decision.
22. In response to the Applicant's previous requests, the Authority said that it had communicated to her locating the information requested in the requests under consideration would exceed

³ <https://www.foi.scot/sites/default/files/2023-07/BriefingSection14VexatiousorRepeatedRequests.pdf>

the upper cost limit under FOISA. It said the Applicant had subsequently amended her requests in an attempt to bring them under the upper cost limit – it was these requests that it had treated as vexatious.

23. The Authority explained that it had previously advised the Applicant that it did not maintain a central record of the information requested. A manual review of all applicable social work records would therefore be required. While the Applicant attempted bring her requests under the upper cost limit by amending the timeframe of information requested, the Authority submitted that complying with these requests would still require a manual review of all applicable social work records to identify information in the scope of her amended requests.
24. As it had consistently advised the Applicant of the significant work that would be required to comply with requests for this information and she had continued to submit similar requests, the Authority said that it felt compelled to apply section 14(1) of FOISA to these requests under consideration and treat them as vexatious.
25. Given the Authority's understanding of the Applicant's "purpose" for requesting the information, it also considered that the requests under consideration "may only have the intended effect of being frivolous or to disrupt [the Authority's] services". It noted that it had previously advised the Applicant that, even if it were to comply with the request, there was a likelihood that no information that would "be of benefit" to the Applicant would be located.
26. The Authority explained that it had considered whether applying section 12 of FOISA would be more appropriate, given that complying with the requests would exceed the upper cost limit under FOISA. As it had applied section 12 of FOISA to the Applicant's previous requests and she had subsequently submitted amended requests, the Authority considered it appropriate to apply section 14(1) of FOISA.
27. The Authority provided cost estimates in response to previous requests made by the Applicant. In one response, it said that to comply with the request it would be required to interrogate approximately 1,400 files for relevant information. It estimated it would "be able to search 240 files within the permitted cost of £600" and that it may be possible provide a "portion" of the information requested. In a later response, it reiterated that to comply with the request it would be required to interrogate approximately 1,400 files for relevant information and it estimated this would cost £1,740.

The Applicant's submissions

28. The Applicant disagreed that either of her requests were vexatious and stated that she had not submitted a "previous request that refers to this amount of information for this period of time". She submitted that the fact she had submitted various requests was evidence of "unreasonable conduct" on the part of the Authority as it had failed to provide a "material response" to her.
29. The Applicant said that the Authority had told her it could give her "this amount of information previously" and the Authority "provided the numbers to me". However, when she submitted further requests the Authority withheld the information requested using "various excuses".
30. The Applicant reiterated that the Authority had not provided a "material answer" to her requests and explained that she considered the requests under consideration were made based on the Authority's "previous advice" and were therefore "not over the financial limit".
31. The Applicant explained that she considered the Authority was engaging in "harmful" conduct which could "prompt further requests". She noted that the Authority had changed its mind

about how much time would need to be spent checking records in files to respond to her request, which had also prompted her to make further requests. She said that the Authority's conduct was focused on "blocking" giving her information by "various measures".

The Commissioner's view

32. The Commissioner has taken account of all of the relevant submissions provided by both the Applicant and the Authority.
33. Taken in isolation, the Applicant's requests might not appear to be vexatious. However, the vexatious nature of a request may only emerge after considering it in the context created by previous dealings the Applicant has had with an Authority.
34. The Commissioner is satisfied, having reviewed the submissions provided by the Authority, that it was reasonable for the Authority to consider previous requests and associated correspondence from the Applicant when deciding whether the requests in question should be treated as vexatious.
35. The Commissioner has carefully considered the terms of each of the Applicant's requests, as well as the Authority's submissions on the work that would be required to respond to them. He accepts that the Authority does not hold a central record of the information requested and he is satisfied, on balance, that complying with each of the requests would be likely to impose a significant burden on the Authority.
36. The Commissioner acknowledges that the Applicant sought to reduce the cost or burden that complying with her requests would impose by amending the timeframe. He has considered the Authority's responses to the Applicant's two previous requests that also specifically asked how many times the Authority allowed direct payments "to be used towards counselling".
37. Having done so, the Commissioner does not consider that the Authority provided clear advice to the Applicant to the effect that simply amending the timeframe of her requests, as written, would not necessarily reduce the cost or burden of complying with them. In fact, the Authority indicated at various points that it may be possible to provide a "portion" of the information requested.
38. The Commissioner considers that where section 12(1) of FOISA is engaged – as it was in response to the Applicant's two previous requests that specifically asked how many times Authority allowed direct payments "to be used towards counselling" – the duty to provide advice and assistance is particularly important. This is to enable a requester (who will not necessarily understand how information is held or organised) to understand whether a request can be meaningfully narrowed to reduce the burden or cost of complying with it.
39. The Commissioner would urge the Authority to ensure that any advice and assistance given, in line with its duty under section 15 of FOISA, is clear and genuinely useful. Had the Authority provided such advice, he considers it conceivable that the Applicant would not have had cause to make the further requests that the Authority treated as vexatious.
40. The Commissioner's guidance on section 14(1) of FOISA is clear that where an authority intends to take account of prior dealings with a requester, it should consider whether its own actions may have contributed to the situation. For instance, by providing ambiguous or inconsistent responses to previous requests that might have led to the requester making further requests.

41. The Commissioner has therefore carefully considered the extent to which the Authority's actions have undermined the application of section 14(1) of FOISA in this case. However, he must also have regard to the broader context and the full range of factors cited by the Authority in support of its position.
42. While FOISA does not require requesters to share their motives for seeking information, the Commissioner accepts the Authority's submissions – particularly when viewed in the context of the Applicant's previous six requests and associated correspondence – that it appears the requests under consideration were intended to further her challenge to the Authority's position on the use of direct payments.
43. The Commissioner is not persuaded that the information sought, even if it could be located and provided without imposing a significant burden on the Authority, would reasonably assist in understanding or scrutinising the Authority's actions in this respect. Freedom of information law is not intended to serve as a mechanism for pursuing individual grievances with public authorities. Established complaints or appeals processes exist for such purposes, and it is through these channels that such concerns should be properly addressed (if they have not been exhausted already).
44. Having carefully considered all relevant submissions and the terms of each of the requests, the Commissioner is satisfied, on balance, that the Authority was, notwithstanding the deficiencies in the advice and assistance it provided, entitled to refuse to comply with each of the requests in question by virtue of section 14(1) of FOISA.
45. The Commissioner would like to make clear that his finding in this decision does not mean that any request from the Applicant to the Authority would necessarily be vexatious. In this case, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the requests in question by virtue of section 14(1) of FOISA, considering the submissions provided by the Authority and bearing in mind that the requests in question were clearly linked by subject matter.
46. However, the right to request information is an important legal right. It should not be abused, but the provisions within section 14(1) of FOISA must still be used carefully, which means authorities must always consider requests on their own merits and consider all the relevant circumstances, in order to reach a balanced conclusion as to whether a request is vexatious.

Decision

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Head of Enforcement

24 July 2025

Appendix 1: Information requests

29 November 2024 request:

“I need you to tell me how many times you allowed direct payments to be used towards counselling since 01/09/23, you need to search as many records as permitted. I’m unable to set a time period for this as I have no way of knowing.

At 12 records per hour you are permitted to go through £15x40=£600 which is 480 records.

So I need the data for 480 records starting from 01/09/23 in date order.”

30 November 2024 request:

“I need you to tell me how many times you allowed direct payments to be used towards counselling since 01/01/24 you need to search as many records as permitted. I’m unable to set a time period for this as I have no way of knowing.

At 12 records per hour you are permitted to go through £15x40=£600 which is 480 records. So I need the data for 480 records starting from 01/01/24 in date order.”